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Of Counsel:
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United States Attorney, District of Oregon

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLO PONTA; YVONNE RIVELLI
PONTA; QUICK COLLECT, INC.;
RICHARD G. FAZIO; ERLINDA M. FAZIO;
OREGON DEPARTMENT OF REVENUE;
and CLACKAMAS COUNTY,

Defendants.

Case No. 3:19-cv-757

COMPLAINT

The United States of America (the “United States”), by and through its undersigned counsel, hereby complains and alleges as follows:

INTRODUCTION

1. This is a civil action timely brought by the United States to reduce to judgment the outstanding federal tax assessments against Defendants Carlo Ponta and Yvonne Rivelli Ponta and to foreclose federal tax liens on a parcel of real property located in Clackamas County, Oregon, described more completely below and referred to as the “Subject Property.”

JURISDICTION AND VENUE

2. This action is commenced pursuant to 26 U.S.C. §§ 7401 and 7403 at the direction of the Attorney General of the United States and with the authorization and request of the Chief Counsel of the Internal Revenue Service (the “Service”), a delegate of the Secretary of the Treasury of the United States.

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402.

4. Venue properly lies in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1396, because Defendants Carlo Ponta and Yvonne Rivelli Ponta reside in the District of Oregon and because the Subject Property at issue is located within the District of Oregon.

DEFENDANTS

5. Defendant Carlo Ponta is named as a defendant because he has unpaid federal tax liabilities and he has an ownership interest in the Subject Property.

6. Defendant Yvonne Rivelli Ponta is named as a defendant because she has unpaid federal tax liabilities and she has an ownership interest in the Subject Property.

7. Defendant Quick Collect, Inc. is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Subject Property.

8. Defendant Richard G. Fazio is named as a defendant pursuant to 26 U.S.C. § 7403(b) because he may claim an interest in the Subject Property.

9. Defendant Erlinda M. Fazio is named as a defendant pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the Subject Property.

10. Defendant Oregon Department of Revenue is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Subject Property.

11. Defendant Clackamas County is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Subject Property.

SUBJECT PROPERTY

12. The property sought to be foreclosed by this action consists of a parcel of real property commonly described as 18701 SE 362nd Drive, Sandy, Oregon 97055 (the “Subject Property”). The legal description of the property is as follows:

Parcel 6, Partition Plat 2004-056, in the County of Clackamas and State of Oregon.

13. Defendant Carlo Ponta acquired the Subject Property by Warranty Deed, dated February 22, 1984, from Giuseppe Ponta.

14. Defendant Carlo Ponta transferred his interest in the Subject Property to Defendants Carlo Ponta and Yvonne Rivelli Ponta by Quit Claim Deed, dated October 12, 1987.

COUNT ONE: REDUCE FEDERAL INCOME TAX ASSESSMENTS TO JUDGMENT AGAINST CARLO PONTA AND YVONNE RIVELLI PONTA

15. The United States incorporates and re-alleges as if fully stated herein each of the allegations contained in Paragraphs 1 through 14.

16. On the dates, in the amounts, and for the tax periods set forth below, a duly authorized delegate of the Secretary of the Treasury made timely assessments against Defendants Carlo Ponta and Yvonne Rivelli Ponta for unpaid federal income tax, penalties, interest, and other statutory additions in the amounts and for the periods indicated:

<u>Tax Period Ending</u>	<u>Tax Type</u>	<u>Assessment Date</u>	<u>Assessment Amount and Type of Assessment</u>	<u>Total as of April 14, 2019*</u>
12/31/2000	Form 1040	10/04/2010	Tax Assessed	\$22,753.00
		“	Late Filing Penalty	\$4,343.62
		“	Failure to Pay Penalty	\$4,826.25
		“	Interest Assessed	\$17,433.51
		05/23/2011	Fees and Collection Costs	\$10.00
		12/21/2015	Interest Assessed	\$8,012.84
		12/19/2016	Interest Assessed	\$1,958.65
		12/18/2017	Interest Assessed	\$2,192.81
		12/17/2018	Interest Assessed	\$2,701.04
				\$59,912.01

12/31/2001	Form 1040	10/04/2010	Tax Assessed	\$14,281.00	\$44,020.84
		"	Estimated Tax Penalty	\$565.17	
		"	Late Filing Penalty	\$3,213.22	
		"	Failure to Pay Penalty	\$3,570.25	
		"	Interest Assessed	\$10,761.27	
		12/21/2015	Interest Assessed	\$5,765.98	
		12/19/2016	Interest Assessed	\$1,439.12	
		12/18/2017	Interest Assessed	\$1,611.19	
12/31/2002	Form 1040	12/17/2018	Interest Assessed	\$1,984.62	\$52,919.09
		10/04/2010	Tax Assessed	\$18,070.00	
		"	Estimated Tax Penalty	\$530.00	
		"	Late Filing Penalty	\$4,065.75	
		"	Failure to Pay Penalty	\$4,517.50	
		"	Interest Assessed	\$11,755.07	
		12/21/2015	Interest Assessed	\$6,931.48	
		12/19/2016	Interest Assessed	\$1,730.03	
12/31/2003	Form 1040	12/18/2017	Interest Assessed	\$1,936.87	\$54,185.67
		12/17/2018	Interest Assessed	\$2,385.78	
		05/18/2009	Estimated Tax Penalty	\$518.05	
		"	Late Filing Penalty	\$19,916.33	
		"	Additional Tax Assessed	\$88,517.00	
		"	Interest Assessed	\$41,736.80	
		"	Failure to Pay Penalty	\$22,129.25	
		"	Estimated Tax Penalty	\$1,765.77	
12/31/2008	Form 1040	12/21/2015	Interest Assessed	\$7,655.61	\$14,632.69
		12/19/2016	Interest Assessed	\$2,195.73	
		12/18/2017	Interest Assessed	\$2,182.97	
		12/17/2018	Interest Assessed	\$2,559.26	
		11/02/2009	Tax Assessed	\$1,545.00	
		02/07/2011	Late Filing Penalty	\$1,477.00	
		"	Accuracy Penalty	\$1,224.00	
		"	Additional Tax Assessed	\$3,218.00	
		"	Interest Assessed	\$654.86	
		"	Failure to Pay Penalty	\$15.90	
		09/26/2011	Fees and Collection Costs	\$10.00	
		10/03/2011	Fees and Collection Costs	\$10.00	
		12/19/2011	Failure to Pay Penalty	\$580.34	
		07/02/2012	Fees and Collection Costs	\$40.00	
		12/21/2015	Interest Assessed	\$1,627.64	
		"	Failure to Pay Penalty	\$933.76	\$14,632.69
		12/19/2016	Interest Assessed	\$478.36	
		12/18/2017	Interest Assessed	\$535.56	
		12/17/2018	Interest Assessed	\$659.70	
		04/08/2019	Fees and Collection Costs	\$10.00	

12/31/2009	Form 1040	11/22/2010 “ “ 12/19/2011 12/21/2015 “ 12/19/2016 12/18/2017 12/17/2018	Tax Assessed Failure to Pay Penalty Interest Assessed Failure to Pay Penalty Interest Assessed Failure to Pay Penalty Interest Assessed Interest Assessed Interest Assessed	\$6,029.00 \$229.16 \$140.44 \$716.12 \$1,138.58 \$486.96 \$318.34 \$356.39 \$439.00	\$9,737.37
12/31/2010	Form 1040	05/30/2011 “ “ “ “ 12/19/2011 12/21/2015 “ 12/19/2016 12/18/2017 12/17/2018	Tax Assessed Estimated Tax Penalty Late Filing Penalty Failure to Pay Penalty Interest Assessed Failure to Pay Penalty Interest Assessed Failure to Pay Penalty Interest Assessed Interest Assessed Interest Assessed	\$11,704.00 \$137.00 \$490.68 \$109.04 \$56.33 \$708.76 \$1,851.13 \$1,908.20 \$609.68 \$682.57 \$840.78	\$18,649.39
12/31/2011	Form 1040	11/19/2012 “ “ “ 12/31/2012 12/21/2015 “ 12/19/2016 12/18/2017 12/17/2018	Tax Assessed Estimated Tax Penalty Failure to Pay Penalty Interest Assessed Fees and Collection Costs Interest Assessed Failure to Pay Penalty Interest Assessed Interest Assessed Interest Assessed	\$14,051.00 \$240.00 \$562.04 \$253.32 \$40.00 \$1,469.67 \$2,950.71 \$737.98 \$826.21 \$1,017.70	\$22,573.75
12/31/2012	Form 1040	03/17/2014 “ “ “ 12/08/2014 02/16/2015 06/15/2015 “ 07/06/2015 “ 08/31/2015 06/13/2016 12/19/2016 “ 12/18/2017 12/17/2018	Tax Assessed Late Filing Penalty Failure to Pay Penalty Interest Assessed Fees and Collection Costs Failure to Pay Penalty Interest Assessed Failure to Pay Penalty Interest Assessed Fees and Collection Costs Fees and Collection Costs Interest Assessed Failure to Pay Penalty Interest Assessed Interest Assessed	\$24,237.00 \$2,202.66 \$734.22 \$370.52 \$10.00 \$525.60 \$376.25 \$453.36 \$717.62 \$247.15 \$30.00 \$10.00 \$890.40 \$570.38 \$754.63 \$929.54	\$20,618.01

12/31/2015	Form 1040	11/21/2016	Tax Assessed	\$21,929.00	
		“	Estimated Tax Penalty	\$49.00	
		“	Failure to Pay Penalty	\$324.68	
		“	Interest Assessed	\$197.52	
		01/09/2017	Fees and Collection Costs	\$40.00	
		12/17/2018	Interest Assessed	\$821.58	
		“	Failure to Pay Penalty	\$1,704.56	\$11,470.36
12/31/2016	Form 1040	02/19/2018	Tax Assessed	\$3,439.00	
		“	Estimated Tax Penalty	\$82.00	
		“	Late Filing Penalty	\$154.75	
		“	Failure to Pay Penalty	\$176.64	
		“	Interest Assessed	\$114.22	
		04/16/2018	Fees and Collection Costs	\$40.00	\$4,087.38
Total:					\$312,806.56

*Including (1) credit for any payments and abatelements and (2) accrued, but unassessed interest and fees and collection costs.

17. Timely notice stating the amounts and demanding payment of the assessments set forth in Paragraph 16 was given to Defendants Carlo Ponta and Yvonne Rivelli Ponta as required by 26 U.S.C. § 6303 of the Internal Revenue Code.

18. Despite timely notice stating the amounts and demanding payment of the assessments set forth in Paragraph 16 Defendants Carlo Ponta and Yvonne Rivelli Ponta have neglected, failed, or refused to pay the assessed amounts to the United States.

19. The United States has established a claim against Defendants Carlo Ponta and Yvonne Rivelli Ponta in the amount of \$312,806.56 for unpaid federal income taxes as of April 14, 2019. Additional unassessed interest and other statutory additions as provided by law will accrue on these balances.

COUNT TWO: FORECLOSE FEDERAL TAX LIENS

20. The United States incorporates and re-alleges as if fully stated herein each of the allegations in paragraphs 1 through 19.

21. Pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens for unpaid tax liabilities have arisen against and attached to all property and rights to property of Defendants Carlo Ponta and Yvonne Rivelli Ponta as of the dates of the assessments described in Paragraph 16. In addition, said liens immediately attached to all after-acquired property or rights to property, including the Subject Property.

22. Notices of Federal Tax Lien were recorded in Clackamas County, Oregon against Defendants Carlo Ponta and Yvonne Rivelli Ponta on the following dates and for the following tax liabilities:

Recording Date	Tax Periods Included in Notice
05/02/2011	2000 2001 2002 2009
09/06/2011	2008 2010
06/11/2012	2003
12/10/2012	2011
11/10/2014	2014
12/20/2016	2015
05/23/2016	2012 ¹
03/26/2018	2016

23. The United States seeks to foreclose the federal tax liens described above through sale of the Subject Property.

24. The tax liens arising from the assessments described in Paragraph 16, above have priority over all interests in the Subject Property acquired after the attachment of the tax liens, subject to the provisions of 26 U.S.C. § 6323(a).

25. Under 26 U.S.C. § 7403(c), the United States is entitled to enforce its federal tax liens upon the Subject Property and to receive the proceeds from the sale of the Subject Property to be applied toward satisfaction of the outstanding and unpaid tax assessments against Defendants Carlo Ponta and Yvonne Rivelli Ponta.

WHEREFORE, the Plaintiff, the United States, prays as follows:

A. That this Court determine and adjudge that Defendants Carlo Ponta and Yvonne Rivelli Ponta are indebted to the United States on the assessments described in paragraph 16,

¹ The Internal Revenue Service mistakenly issued a certificate of release of the Notice of Federal Tax Lien for tax year 2012, which was recorded on June 23, 2015. On April 11, 2016, the Internal Revenue Service recorded a Revocation of Certificate of Release of Federal Tax Lien, which reinstated the lien as provided under 26 U.S.C. § 6325(f)(2).

above, in the amount of \$312,806.56 as of April 14, 2019, less any subsequent payments or credits, plus interest and other statutory additions, as provided by law, and that judgment in that amount be entered against Defendants Carlo Ponta and Yvonne Rivelli Ponta and in favor of the United States;

B. That this Court determine and adjudge that the United States has valid federal tax and judgment liens against all property and rights to property of Defendants Carlo Ponta and Yvonne Rivelli Ponta, including, but not limited to, their interest in the Subject Property;

C. That this Court determines the merits and priority of any claims or interests of the other named defendants in the Subject Property and their respective priority to a distribution of proceeds from a sale of the Subject Property;

D. That the federal tax and judgment liens against Defendants Carlo Ponta and Yvonne Rivelli Ponta encumbering the Subject Property be foreclosed;

E. That the Subject Property be sold with the proceeds applied to the delinquent federal tax liabilities of Defendants Carlo Ponta and Yvonne Rivelli Ponta; and

F. That the United States be granted its costs and fees herein, and such other and further relief as this Court deems just and proper.

Respectfully submitted this 14th day of May, 2019.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Yael Bortnick
Yael BORTNICK
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Of Counsel:
BILLY J. WILLIAMS
United States Attorney, District of Oregon

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (*Firm Name, Address, and Telephone Number*)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- | | |
|---|---|
| <input type="checkbox"/> 1 U.S. Government
Plaintiff | <input type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government
Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

- | | | |
|---|-----------|--|
| <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. | DEMAND \$ | CHECK YES only if demanded in complaint:
JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|-----------|--|

**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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